IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No. 22235 of 2003 &

C.C.No. 887 of 2004

W.P.No. 22235 of 2003

Between:

N.Rama Rao S/o N.Narayana ..... PETITIONER

AND

1. The Chair Person, the District Cooperative

Marketing Society, Adilabad.

2. The Business Manager, the District Cooperative

Marketing Society, Adilabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction, directing the respondents to pay subsistence allowance to the petitioner from the date of his suspension i.e. 28.9.2000 and further direct the respondents to act in accordance with law.

C.C.No. 887 of 2004

(Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents herein for violating, disobeying the Order of the

High Court dated 22.10.2003 made in W.P.M.P.No. 27790 of 2003

in W.P.No.22235 of 2003)

-

Between:

N.Rama Rao S/o N.Narayana ..... PETITIONER

AND

1. Mr.V.Durga Das, the Chair Person, the District Cooperative

Marketing Society, Adilabad.

2. Mr. K.Raja Reddy, the Business Manager, the District Cooperative

Marketing Society, Adilabad.

.....RESPONDENTS

Counsel for the Petitioner in both cases: Mr.R.M.REDDY

Counsel for Respondents in both cases: G.P. FOR COOPERATION

The Court made the following :

COMMON ORDER:

-

While the petitioner was working as Salesman in the Fertilizer Depot of the respondent organization, was placed under suspension by the proceedings No.606/MC/2000 dated 28.9.2000 for certain irregularities. It is stated that the petitioner raised a dispute with regard to misappropriation of funds, under Section 60 of the A.P. Cooperative Societies Act, 1964 and the Arbitrator passed award in Claim No.9 of 1999 dated 21.1.2002 fastening the liability in a sum of Rs.1,73,387/-

on all the concerned and on the petitioner a sum of Rs.99,000/-. It is stated that the petitioner has paid the said amount of Rs.99,000/-. Insofar as keeping the petitoner under suspension pending enquiry is concerned, petitioner is entitled for subsistence allowance and for non-payment of subsistence allowance, he filed the present writ petition.

This Court by order dated 22.10.2003 granted interim direction in W.P.M.P.No. 27790 of 2003 in W.P.No.22235 of 2003 directing the respondents to pay subsistence allowance payable to the petitioner from the date of his suspension i.e. 28.9.2000 as admissible. As the said interim order was not complied with, petitoner filed C.C.No.887 of 2004.

Counter affidavits have been filed by the respondents in the contempt case as well as in the writ petition stating that the petitioner was reinstated into service by the proceedings of the first respondent dated 5.8.2004 and the petitoner was also joined the duty on 6.8.2004, but insofar as subsistence allowance is concerned, it is stated that due to financial stringency, the second respondent is not in a position to pay the subsistence allowance to the petitioner and the same will be paid within a period of two months.

As the petitioner was already reinstated into service and in view of the facts and circumstances of the case, the counsel appearing for respondents requested two months time for payment of subsistence allowance. Therefore, I am of the view that it is just and proper to grant reasonable time, so as to enable the respondents to pay subsistence allowance to the petitoner.

Having regard to the facts and circumstances of the case, the writ petition is accordingly disposed of with a direction to the respondents to pay the subsistence allowance payable to the petitioner on or before the 31st October, 2004. No costs.

In view of the disposal of the writ petition, the contempt case No.887 of 2004 is closed. However, if the subsistence allowance as directed above is not paid, it is open for the petitioner to file fresh contempt case.

_____

V.ESWARAIAH, J

Date: 13.9.2004

Note: Issue C.C. in (3) days.

B/o

DA

To

1. The Chair Person, the District Cooperative

Marketing Society, Adilabad.

2. The Business Manager, the District Cooperative

Marketing Society, Adilabad.

3. Two CCs to the G.P. for Cooperation, High Court, Hyderabad (OUT)

4 Two CD copies.